

## **REMARKS**

### **Status of the Claims**

Following amendment as requested herein, the following claims are now pending in the present application: 1-27 and 32-42. By this Amendment, Claims 9, 23, and 26 are amended. Claim 42 is newly added.

Claims 28-31 are cancelled without prejudice. Applicants reserve the right to reintroduce the subject matter of the cancelled claims, for example, in a later-filed continuation application.

### **Restriction Requirement**

In the Restriction Requirement mailed March 17, 2006, the Examiner indicated that there were thirty-one (31) Groups of claims. Applicants appreciate the Examiner's acknowledgment in the present Office Action that Applicants timely traversed the restriction (election) requirement in the reply filed on May 17, 2006. Office Action page 7, lines 2-5.

Applicants also thank the Examiner for being "receptive to other suggestions (i.e., possibly combining one or two other final product groups with the elected invention of Group IV) for restricting the instant application but with the understanding that prosecution will not be extended." Office Action page 5, lines 16-19 and page 6, lines 1-2.

Accordingly, the Examiner is respectfully encouraged to re-consider the restriction of Groups I through V for reasons of record.

Finally, Applicants thank the Examiner for "delay[ing] the decision on the intermediates until such a time if the final products are indicated as allowable." Office Action page 6, lines 11-13.

### **Allowable Subject Matter**

The Office Action states, "[t]he elected species ... of the instant specification, is allowable over the art of record." Office Action page 12, lines 15-18. According to the Examiner, "Claim 18 ... would be allowable if: (1) rewritten in independent form including

all of the limitations of the base claim and any intervening claims; and (2) directed solely toward the subject matter of elected Group IV.” Office Action page 13, lines 1-5.

Applicants thank the Examiner for suggesting allowable subject matter. New Claim 42 is directed solely toward the subject matter of elected Group IV as suggested by the Examiner.

Therefore, Applicants believe that new Claim 42 is allowable.

### **Claim Objections**

Claims 23 and 26 were objected to because of the following informalities:

- a) in Claim 23, and “and” is purportedly needed before the definition of  $R^6$ ; and
- b) in Claim 26, typographical errors in the nomenclature (*i.e.*, spacing, dashes or parenthesis) need to be corrected in the 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and 13<sup>th</sup> compounds listed in the claim.

These objections to Claim 26 are now moot in view of the present amendment. With respect to Claim 23, Applicants have used “then” instead of “and.” Thus, the language is clear - when  $R^4$  represents  $-S(O)_2N(H)C(O)R^6$ ,  $-S(O)_2N(H)S(O)_2R^6$  or  $-C(O)N(H)S(O)_2R^6$ , then  $R^6$  represents *n*-butoxymethyl, *iso*-butoxy or *n*-butoxy.

### **Rejections Under 35 U.S.C. § 112, Second Paragraph**

Claims 9 and 10 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, according to the Examiner, “Claim 9 lacks antecedent basis from claim 1 (note CF<sub>3</sub> in claim 9).”

This rejection is now moot in view of the present amendment.

### **Rejections under 35 U.S.C. § 103(a)**

Claims 1, 5, 9-17, 19-27 and 32-35 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Pat. No. 6,335,451 to Kleeman *et al.* (“Kleeman”) in view of U.S. Pat. No. 5,807,878 to Corbier *et al.* (“Corbier”). This rejection is respectfully traversed.

As admitted by the Examiner, the claimed compounds do not include a sulfonylcyanamide group, as is required by Kleeman. However, the Office Action seeks to combine Kleeman and Corbier, stating that Corbier teaches the “interchangeability of sulfonylcyanamide group (column 4, line 4) and a substituent embraced of the instant R4 variable (column 4, line 5).”

Respectfully, Corbier does not teach the interchangeability of a sulfonylcyanamide group and the instant R4 variable. Rather, Corbier provides a long list of substituents that can be present, which long list encompasses virtually all carbonyl and sulfonyl-containing substituents.

The Examiner appears to have missed a key statement by Kleeman defining his invention. That is, Kleeman clearly distinguished his claimed compounds from those in the prior art, stating (at column 14, lines 46-50) that:

Compounds similar to the compounds of the formula I according to the invention are disclosed in U.S. Pat. Nos. 5,482,957 and 5,604,251. However, they do not have the sulfonylcyanamide side chain always present according to the invention. Imidazole derivatives as angiotensin II antagonists are also described in WO9523792, WO9523791, U.S. Pat. No. 5,391,732, EP-A 648763. In addition, in U.S. Pat. No. 5,281,614, triazole derivatives and, in WO 9220662 and in J. Med. Chem. (1994), 37 (17), 2808-2824, triazolinone derivatives are described as angiotensin II receptor antagonists. The known compounds are angiotensin II receptor antagonists of the subtype AT1, which action is not present or is only present to a small extent in the compounds I according to the invention.

Thus, Kleeman distinguished his compounds from the prior art on the basis of the exact group (i.e., the sulfonylcyanamide group), which Kleeman states **must be present**, that is absent from the claimed compounds. Furthermore, Kleeman distinguished the biological activity of compounds that lack the sulfonylcyanamide group (i.e., angiotensin II receptor antagonists of the subtype AT1) from the Kleeman compounds that include a

sulfonylcyanamide group (where this action is either not present or only present to a small extent).

Accordingly, Kleeman teaches away from the substitution of a sulfonylcyanamide group on the basis of both structure and function, and teaching away is the antithesis of obviousness. Applicants therefore respectfully request that the obviousness rejection be withdrawn.

### Conclusion

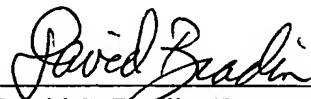
In view of the amendments and comments presented herein, Applicants respectfully request that the application be allowed upon cancellation of non-elected subject matter, and prompt notification of same is earnestly solicited.

The Examiner is encouraged to contact the undersigned with any questions she may have, and also to discuss the possibility of rejoinder of claims to the intermediates and methods for the preparation of the compounds, as the Examiner mentioned might be possible should there be allowable subject matter. In this manner, once agreement has been reached as to the scope of allowable claims, Applicants will then present an appropriate further amendment, revising claims so that they can be properly rejoined, or cancelling claims to non-elected subject matter that will not be rejoined, and thus expedite allowance.

A fee is due for this submission, for an extension of time for two months, to and including December 26, 2006. The Director is authorized to charge this fee, and any other fee that may be required, to Womble Carlyle's Deposit Account No. 09-0528.

Respectfully submitted,

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